

SCHWEGMAN ■ LUNDBERG ■ WOESSNER

## United States Patent Application

### SUBSTITUTE COMBINED REISSUE DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM, AND METHOD AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM,**

the specification of which was filed on July 10, 2001 as application serial no. 09/903,457.

I believe original patent 5,819,034 ("the '034 patent"), to be wholly or partly inoperative by reason of my claiming less than I had the right to claim in the patent. The claims of the '034 patent relate to a distributed computer system. For example, claim 1 recites a distributed computer system reciting, inter alia, a "further processor including means to . . . form an interactive video program in which execution of said distributed computing application alters said video program." However, the '034 patent also discloses a method and system that, stated generally, uses a server to transmit to a client both a television program and a computing application comprising executable code, the executable code to be executed at the client to cause display of interactive information associated with the television program while the television program is being displayed at the client. This invention is distinct from the invention claimed in the original patent; and is not in any way claimed in the issued claims of the '034 patent. The above quoted language of issued claim 1 is not necessary for patentability of claims drawn to the identified disclosed but unclaimed invention, and thus the presence of this limitation renders the '034 patent partly inoperative. This error is addressed in this reissue by eliminating limitations found in the issued claims, including the limitation from issued claim 1 of the '034 patent quoted above, and by including claims directed to methods of, and systems for, using a server to transmit to a client both a television program and a computing application comprising executable code. In particular, the error is addressed by the presentation of claims 68-143 and 246-263, drawn to this previously unclaimed invention.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. § 1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

**No such claim for priority is being made at this time.**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

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Application Number	Filing Date	Status
<b>09/672,523</b>	<b>September 27, 2000</b>	<b>Pending</b>

I hereby appoint the attorneys associated with the customer number listed below to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

**Customer Number: 44367**

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg & Woessner, P.A. to the contrary.

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Full Name of joint inventor number 1: **Kuriacose Joseph**

Citizenship: **United States of America**  
Post Office Address: **16124 Orchard Grove Road  
Gaithersburg, MD 20878**

Residence: **Gaithersburg, MD**

Signature: \_\_\_\_\_

Kuriacose Joseph

Date: \_\_\_\_\_

6/14/10

Full Name of joint inventor number 2: **Vincent Dureau**

Citizenship: **France**  
Post Office Address: **3519 S. Court  
Palo Alto, CA 94306**

Residence: **Palo Alto, CA**

Signature: \_\_\_\_\_

Vincent Dureau

Date: \_\_\_\_\_

Full Name of joint inventor number 3: **Alain Delpuch**

Citizenship: **France**  
Post Office Address: **36 rue Le Brun  
Paris, 75013  
France**

Residence: **Paris,**

Signature: \_\_\_\_\_

Alain Delpuch

Date: \_\_\_\_\_

☒ Additional inventors are being named on separately numbered sheets, attached hereto.

Page 4 of 5

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Ansley Wayne Jessup

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

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(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

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Residence: **Gaithersburg, MD**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
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Citizenship: **France**  
Post Office Address: 3519 S. Court  
Palo Alto, CA 94306

Residence: **Palo Alto, CA**

Signature:  \_\_\_\_\_ Date: 06/12/10  
Vincent Dureau

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Citizenship: **France**  
Post Office Address: 36 rue Le Brun  
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France

Residence: **Paris,**

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Alain Delpuch

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Attorney Docket No.: 2050.001US5  
Client Ref No. OPTV-001/RD2/US  
Serial No. 09/903,448  
Filing Date: July 10, 2001

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Page 4 of 5

Full Name of joint inventor number 4: Ansley Wayne Jessup

Citizenship: **United States of America**

Residence: **Willingboro, NJ**

Post Office Address: 22 Elmwood Lane  
Willingboro, NJ 08046

Signature: \_\_\_\_\_  
Ansley Wayne Jessup

Date: \_\_\_\_\_

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Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
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Attorney Docket No.: 2050.001US5  
Client Ref No. OPTV-001/RD2/US  
Serial No. 09/903,448  
Filing Date: July 10, 2001

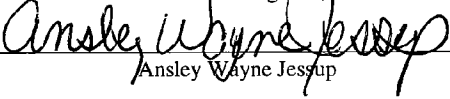
Page 4 of 5

Full Name of joint inventor number 4: Ansley Wayne Jessup

Citizenship: United States of America

Residence: Willingboro, NJ

Post Office Address: 22 Elmwood Lane  
Willingboro, NJ 08046

Signature:   
Ansley Wayne Jessup

Date: June 13, 2010

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I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Filing Date	Status
09/672,523	September 27, 2000	Pending



I hereby appoint the attorneys associated with the customer number listed below to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

**Customer Number: 44367**

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg & Woessner, P.A. to the contrary.

Please direct all correspondence in this case to **Schwegman, Lundberg, & Woessner, P.A.** at the address indicated below:

**Customer Number: 44367**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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☒ Additional inventors are being named on separately numbered sheets, attached hereto.

Attorney Docket No.: 2050.001US5  
Client Ref No. OPTV-001/RD2/US  
Serial No. 09/903,448  
Filing Date: July 10, 2001

Page 4 of 5

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Ansley Wayne Jessup

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.